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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/579,370	05/26/2000	David Friedman	BUFFALO 201	7613
10037	7590	10/26/2006	EXAMINER	
MILDE & HOFFBERG, LLP 10 BANK STREET SUITE 460 WHITE PLAINS, NY 10606			HOM, SHICK C	
			ART UNIT	PAPER NUMBER
			2616	

DATE MAILED: 10/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/579,370

Applicant(s)

FRIEDMAN ET AL.

Examiner

Shick C. Hom

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 July 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 6,8,9,11-14,16,18-31 and 33-35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 6,8,9,11-14,16,18-31 and 33-35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

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## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed 4/7/06 have been fully considered but they are not persuasive. In page 8 of the remarks, applicant indicated that Fig. 1 shows PSTN 25 and Fig. 2 shows DLL32; however PSTN 25 is not found in the drawing filed nor is there a Fig. 2. In the amended abstract delete the legal phraseology, such as "said" in line 7.

### ***Drawings***

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the public switched telephone network and the external program must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the

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appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

3. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure

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concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

4. The disclosure is objected to because of the following informalities: in page 14 lines 7-10, the incorporating of reference by reciting the URL's is improper, delete all references to URL's in the specification. Appropriate correction is required.

5. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

#### ***Claim Objections***

6. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Claim 32 is missing.

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***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 6, 9, 11, 16, 18, 24-31, 33-35 are rejected under 35 U.S.C. 102(e) as being anticipated by Shafiee et al. (6,771,766).

Regarding claims 6, 9, 11, 16, 25-29, 31, 33-35:

Shafiee et al. disclose the Internet telephony system for providing communications involving a user communicating through an Internet browser (see col. 8 lines 15-32 which recite the browser including the audio/video conferencing software and telephone call between the user and the live agent), comprising a server hosting a Web site providing a user interface to permit a user to select and purchase items of interest (see the abstract which recite the web server and the virtual shopping

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cart whereby the customer can add or remove items from and which includes the purchase prices), said server executing an application program communicating with telephony hardware to implement telephony system control, said application program having an application programming interface, said application program interface functions comprising at least one call to an external program (see col. 9 lines 7-16 which recite the server including the application program interface API for invoking the establishment of the call to the live agent), wherein said server proactively transmits a message to the Internet browser based on an automated analysis of a status of a user's Internet shopping cart representing items of interest having an unconcluded transaction status, requesting establishment of an interactive voice communication session (see the abstract which recite the API generating a call request for audio-video conferencing in response to items added to the virtual shopping cart by the customer), and wherein the user can allow initiation of the interactive voice communication session through the Internet browser, in accordance with a predefined set of user preferences, defining a user's preferred communications mode selected from the group consisting of voice over a data packet switched network and a public switched telephone network, and wherein the user's selected items of interest in the shopping

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cart are independent of the establishment of the interactive voice communication session as in claims 6, 24-27, 29, 31, 33-35; wherein the user interactively communicates with the Web site to establish the status, the request for establishment of an interactive voice communication session being responsive to an economic interest of a party distinct from the user as in claims 9, 16; wherein the Internet browser presents a hyperlink to the a user, a selection of said hyperlink causing the Internet browser to communicate with the server, retrieve user-related data, and open a voice over Internet protocol communication between the user and a second party as in claims 11, 28 (see the abstract which recite the customer information being passed which include the IP address of the customer terminal, video capability of the customer terminal, and/or browser type used clearly reads on the voice communication being in accordance with the predefined set of user preferences; and see col. 16 lines 33-64 which recite the server recognizing an item added to a shopping cart or dwelling at a certain page for a predetermined length of time, then triggers the event such as requesting the customer to call the agent by the API whereby the customer can activate the call agent button, i.e. hyperlink, for invoking the establishment of the call to the agent clearly reads on the user being allowed initiation of the interactive



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voice communication session through the Internet browser and user's selected items of interest in the shopping cart being independent of the establishment of the interactive voice communication session and the session being of an economic interest of a party distinct from the user).

Regarding claims 18, 30:

Shafiee et al. disclose wherein the external program comprises is a dynamic link library adapted to run under Microsoft Windows operating system (see col. 17 lines 10-43 which recite the use of Microsoft Windows operating system on the customer terminal).

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various

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claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary.

Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

10. Claims 8, 12-14, 19-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shafiee et al. (6,771,766) in view of Petty et al. (6,337,858).

Shafiee et al. disclose the system and method described in paragraph 8 of this office action. Shafiee et al. disclose all the subject matter of the claimed invention with the exception of wherein the user preferences are retrieved in a cookie as in claims 8, 14; wherein the user is charged for the communication as in claim 12; wherein the user is charged a micropayment as in claims 13, 23; wherein the application program may spawn a plurality of instances of the external program simultaneously as in claim 19; wherein the application program has a first component running on a telephony server and a second component

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running on each telephony client as in claim 20; a communication link to the Web server as in claim 21; wherein the AP interfaces with a monetary accounting system as in claim 22.

Petty et al. from the same or similar fields of endeavor teach that it is known to provide wherein the user's preferences are retrieved in a cookie as in claims 8, 14 (see col. 8 line 45 to col. 9 line 6 which recite the preference file for the user including a cookie); wherein the user is charged for the communication; and wherein the user is charged a micropayment as in claims 12, 13, 23 (see col. 6 line 55 to col. 7 line which recite using the billing server for tracking the PSTN usage and log distance charges and preparing call detail records for the ISP which uses the call detail record to prepare bills for its service subscribers); wherein the application program may spawn a plurality of instances of the external program simultaneously as in claim 19 (see Fig. 9A which shows the spawning of a plurality of external program simultaneously); wherein the application program has a component running on a telephony server and a component running on each telephony client as in claim 20 (see Fig. 2 and col. 6 line 55 to col. 7 line 17 which shows the software running in the server and client); and the communications link to the Web server, for coordinating telephony functions and Web server functions as in claim 21 (see

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col. 6 lines 44-54 which recite the Web server for telephony functions).

Thus, it would have been obvious to the person having ordinary skill in the art at the time the invention was made to provide the user preferences being retrieved in a cookie; wherein the user is charged for the communication; wherein the user is charged a micropayment; wherein the application program may spawn a plurality of instances of the external program simultaneously; wherein the application program has a first component running on a telephony server and a second component running on each telephony client; a communication link to the Web server; and wherein the AP interfaces with a monetary accounting system as taught by Petty et al. in the Internet telephony system of Shafiee et al. The user preferences being retrieved in a cookie; wherein the user is charged for the communication; wherein the user is charged a micropayment; wherein the application program may spawn a plurality of instances of the external program simultaneously; wherein the application program has a first component running on a telephony server and a second component running on each telephony client; a communication link to the Web server; and wherein the AP interfaces with a monetary accounting system can be implemented by providing the application program, AP interfaces to the

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monetary accounting system and using cookie to retrieve preferences of Petty et al. in the server software of Shafiee et al. The motivation for providing the application program, AP interfaces to the monetary accounting system and using cookie to retrieve preferences as taught by Petty et al. in the server software of Shafiee et al. being that it provides more efficiency for the system since the system uses know technique of cookies to retrieve information and providing the desirable added feature of connecting to an accounting system for managing payment in the system of Shafiee et al.

### **Conclusion**

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will

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expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shick C. Hom whose telephone number is 571-272-3173. The examiner can normally be reached on Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Seema Rao can be reached on 571-272-3174. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SH

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